Filed 1/14/19 In re L.L. CA2/6

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re L.L., a Person Coming Under the Juvenile Court Law.	2d Juv. No. B290765 (Super. Ct. No. 17 JD-00197) (San Luis Obispo County)
SAN LUIS OBISPO COUNTY DEPARTMENT OF SOCIAL SERVICES, Plaintiff and Respondent, v. R.L. et al., Defendants and Appellants.	

M.L. and R.L. appeal the juvenile court's order denying a petition to allow unsupervised visits with their daughter, L.L. (Welf. & Inst. Code, § 388.)[1] We affirm.

[1] All statutory references are to the Welfare and Institutions Code.

FACTUAL AND PROCEDURAL BACKGROUND

M.L. (Mother) and R.L. (Father) are the noncustodial parents of L.L., a teenage girl.[2] Mother suffers from alcoholism. Both parents have a history of domestic violence and are sometimes homeless. L.L.'s maternal grandparents are her legal guardians. L.L. has a history of drug use, associating with gang members, running away, and being exploited for prostitution.

In June 2017, L.L. ran away from her grandparents' home in Bakersfield. Two people she was involved with were murdered. Kern County initiated a referral to the San Luis Obispo Department of Social Services (the Department).

L.L. appeared at her parents' home in San Luis Obispo. On June 17, she was arrested there for brandishing a knife during an argument with them. On July 5, Father was arrested after another altercation with L.L. On July 17, after a third altercation, L.L. ran away from her parents' home.

The Department filed a petition to detain L.L. pursuant to section 300.[3] The petition alleged that L.L.'s guardians were unable to protect her.

The juvenile court detained L.L. and placed her in the care of the Department. It granted Mother and Father supervised visits.

At the August 2017 jurisdictional hearing, the juvenile court sustained the petition. It placed L.L. in a residential treatment facility in Wyoming. Her current placement was

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[2] L.L. turned 18 years old while this appeal was pending.

[3] The Department initially filed a petition to remove L.L. from her parents, but the petition was later corrected to remove her from her guardians by stipulation and amendment.

unable to manage her, she repeatedly gave her confidential placement address to adult males, and she was assessed as needing the highest level of drug and alcohol care. When the court announced the placement, Father said to L.L., "Just run. Fuck it."

At the October 2017 disposition hearing, Mother and Father caused many disruptions. They later explained that they were excited to see L.L. after a long time apart and were frustrated that a social worker did not allow them to interact with her at the courthouse. Father acknowledged in his testimony that he "set up surveillance" to watch L.L. at a confidential placement. L.L. testified that she wanted visits with Mother and Father.

The juvenile court ordered monthly three-hour supervised visits for Mother and Father, on conditions that included sobriety testing for Mother (the October order). When the court said that Mother must test clean before a visit, Mother told L.L., "It ain't going to happen."

On March 18, 2018, L.L. returned from Wyoming to a placement in San Luis Obispo. Mother filed a petition to change the October visitation order to allow unsupervised visits and remove the restrictions. Father joined orally.

While their petition was pending in late March and April, Mother and Father had several supervised visits. At a March 23 visit, L.L. became agitated when Mother and Father left before she arrived. They returned and the visit went forward. At a March 30 visit, Mother smelled of alcohol. Mother and Father also had a man in their car, which upset L.L. Father cancelled an April 11 visit when L.L. was already on her way to it. At an April 20 visit, Father introduced a man to L.L. The man smelled

of alcohol and told L.L. that he would get her whatever she wanted. Mother and Father yelled at each other at the end of the visit. A visit scheduled for May 4 was cancelled because L.L. said she did not want to see her parents.

Before the June 8 hearing on Mother and Father's petition, L.L. ran away again. L.L. acknowledged she had relapsed. At the hearing, L.L.'s therapist, her social worker, her attorney, and the tribal representative advised against unsupervised visits with Mother and Father, although L.L. requested them.[4] Counsel for the Department expressed concern about the stress of the recent visits and the risk of unsupervised contact: "[W]hen [L.L. is] working on her own sobriety where we don't have demonstrated sobriety on the other side, [it] is not a recipe for success."

The juvenile court considered Mother and Father's declaration, in which they expressed their love for L.L., their concern for her safety, and their belief that it would be best for her to have unsupervised contact with them as she approached her 18th birthday. They said they present no risk to L.L. and are able to protect her and act appropriately during visits. They pointed out that they are the only adults that L.L. loves and trusts; that L.L. contacts them when she runs away; and that they worked with community agencies to keep L.L. safe when she ran away and when she was not protected by her guardians.

The juvenile court denied the petition to change the October visitation order.

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[4] L.L. is an Indian child and the Cherokee Nation tribe is involved in the case.

DISCUSSION

Mother and Father contend the juvenile court abused its discretion when it did not grant their request for unsupervised visits, did not specify the number or duration of visits, did not eliminate a sobriety condition and a restriction on contact in public places, and did not grant the Department discretion to increase visits as L.L. progressed in her sobriety treatment. Father argues that he and Mother do not endanger L.L. Mother argues the order is incomplete, vague, and an improper delegation of authority to the Department. (*In re Kyle E.* (2010) 185 Cal.App.4th 1130, 1135-1136.) We disagree.

Visitation between a parent and child should be as frequent as possible, consistent with the well-being of the minor. (§ 362.1, subd. (a)(1)(A).) Even when (as here) there are no reunification services, visitation serves as a means of maintaining a relationship between the child and parent. (*In re Nicholas B.* (2001) 88 Cal.App.4th 1126, 1138.) Section 388 imposed on Mother and Father the burden to demonstrate, by a preponderance of the evidence, that new evidence or a change of circumstances existed to support a finding that L.L.'s best interests would be served by changing the October order. We review the order denying their petition for abuse of discretion. (*In re Marcos G.* (2010) 182 Cal.App.4th 369, 382.)

Even if L.L.'s return to San Luis Obispo was a change of circumstances, the record supports the juvenile court's determination that unsupervised visits were not in her best interest. Her relapse and Mother's lack of sobriety alone justify supervision. As the court observed, "[A]t this time in [L.L.'s] life, most of all she needs – she needs help, and visits like the ones that are described . . . are not helpful to her, they cause stress to

her." The court did not abuse its discretion when it concluded that "unsupervised [visits] right now [are] a bad idea."

The order was not vague or incomplete. When the juvenile court denied the petition to change the October 25 order, it kept in place all of the existing terms and restrictions, including the minimum frequency and duration of visits. The restrictions are supported by evidence that Mother is an active alcoholic, L.L. is struggling with her own sobriety, and visits between L.L. and her parents are stressful. The restriction against communication during accidental community contact is particularly appropriate in view of Mother's demand in her petition "to know who [L.L. is] with, where she's at, [and] what her friends' addresses are all the time."

The juvenile court did not deny the Department's request for discretion to increase visitation. The October order set a minimum number of visits, not a limit. At the hearing on Mother's request to change the order, counsel for the Department asked the court to "[k]eep the visitation order supervised with the discretion to lift." She explained, "The minimum order is one hour per month, but the social worker has been trying to do weekly visits unsupervised." The unchanged October order allows the Department to increase visitation and all parties recognized that L.L. would have greater control over visitation after her 18th birthday.

Although L.L. asked for unsupervised contact with her parents, the record supports the juvenile court's determination that unsupervised contact could undermine her fragile recovery. The court did not abuse its discretion when it refused to change its order.

DISPOSITION

The judgment (order) is affirmed.

NOT TO BE PUBLISHED.

GILBERT, P. J.

We concur:

YEGAN, J.

PERREN, J.

Charles S. Crandall, Judge

Superior Court County of San Luis Obispo

Aida Aslanian, under appointment by the Court of Appeal, for Defendant and Appellant M.L.

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